

**Delaware Department of Transportation
Division of Transportation Solutions
Design Guidance Memorandum**

Memorandum Number 1-12

1. Road Design Manual 2. Bridge Design Manual 3. Utilities Design Manual
4. Real Estate Manual 5. Standard Specifications 6. Standard Construction Details

Title: Escrow of Bid Documents

Effective date: July 17, 2002

Sections to Implement: X Road, X Bridge, X PMT, X Design Support, Specification, Utility, Real Estate, X Quality Management, X Field Services, X District, Other Contract Administration

I. Purpose:

To guide project personnel when to specify escrow of contractor's bid documents.

II. Design Guidance:

1. Project personnel shall assess the need based on the risk, size or complexity of a project or others as described below and specify the escrow of bid documents on the contract per the Standard Specification, Section 103.08.
2. Good candidates are those with one or more of the following:
 - A. Project containing item(s), which are subject to different interpretation.
 - B. Project with high construction cost, normally more than \$10 million.
 - C. Complex project. Example factors such as:
 - Multiple alternates, construction methods or procedures are available.
 - Urban environment with tight schedule, tight right-of-way, heavy traffic, or close proximity to businesses or residences.
 - Complex geotechnical formations which could result into differing site conditions, different construction equipment or method, or quantity.
 - Work in areas where there are potential severe environmental factors, such as flooding, unusually wet condition, hurricane, tidal wave etc.
 - D. Project with a major or significant item whose quantity is uncertain, such as rock excavation.
 - E. Project with rarely used item, new item or new technology.
 - F. Fast track or blitz projects.
 - G. Project includes milestone dates or completion dates falling near a critical time, such as Memorial Day (beach traffic) or mid December (winter shut down).
 - H. Project with incentive and disincentive clauses.
3. The Department does not routinely escrow bid documents. The use of this specification should be selective and dependent upon the severity or significance of the factor or combination of factors listed above. The use of bid document escrow must be reviewed and approved by the Assistant Director.

III. Justification:

The escrow of contractor's bid documents can be useful in resolving any subsequent disputes, claims, arbitration proceeding, or litigation arising from the construction of the project.

Prepared and	<u> /S/ Chao H. Hu </u>	<u>July 17, 2002</u>
Recommended by	Assistant Chief Engineer	Date

Approved:	<u> /S/ Carolann D. Wicks </u>	<u>July 17, 2002</u>
	Director of Transportation Solutions	Date

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